



United States Department of the Interior

BUREAU OF RECLAMATION
Central Valley Operations Office
3310 El Camino Avenue, Suite 300
Sacramento, California 95821

IN REPLY
REFER TO:

CVO-400
WTR-4.10

JUN 24 2004

Ms. Celeste Cantú
Executive Director
State Water Resources Control Board
P.O. Box 2000
Sacramento, California 95812-2000

Subject: Water Level Response Plan Pursuant to D-1641

Dear Ms. Cantú:

Enclosed for your approval is the Response Plan for Water Level Concerns in the South Delta Under Water Rights Decision 1641 (D-1641). We seek a new approval of this plan that was in effect until February 29, 2004.

The Department of Water Resources (Department) and the Bureau of Reclamation (Reclamation) developed this plan in coordination with Mr. John Herrick and Mr. Alex Hildebrand of the South Delta Water Agency (SDWA) as well as with representatives from the California Department of Fish and Game, U.S. Fish and Wildlife Service, and National Marine Fisheries Service. SDWA submitted comments to us after a review of a draft version of this plan. We have enclosed a copy of their comments with our responses.

The Water Level Response Plan addresses water level impacts due to the incremental effects of Stage 1 and Stage 2 Joint Point of Diversion (JPOD) operations and water transfers. It includes provisions for forecasting water levels, mitigating incremental effects on water levels, developing preventative measures for problematic agricultural diversions, and maintaining regular communication between the Department, Reclamation, and SDWA.

The Department and Reclamation propose to utilize the hydrodynamic component of the Department's Delta simulation Model 2 (DSM2) to model the water levels in the South Delta. We are uncertain how the Delta water levels will react to project operations after the recent levee break at Upper Jones Tract. The Department is currently modifying the DSM2 model to simulate the Delta conditions to represent the new hydraulics and water levels will be closely monitored. Currently, it is estimated that the levee breach will be closed to flow on and off the island by the end of July, 2004 and the Delta should be back under normal conditions.

Portable pumps have been used effectively for two summers (2002 and 2003) to assist diverters who were experiencing water level problems downstream of the Temporary Barriers. In 2002, the pumps were installed after the diverters experienced problems, but in 2003, the pumps were installed early before the diverters needed them. Last summer portable pumps were also installed to assist diverters on Tom Paine Slough. This April, 2004 the pumps were installed in these areas and they will remain in place until no longer needed at the end of the irrigation season.

The portable pumps program has been effective in responding to forecasted and actual water level problems. However, because of the difficulty of predicting water levels of concern due to the numerous factors influencing the water levels in the South Delta, the Department and Reclamation pledge to suspend the JPOD/transfer upon the request of SDWA if diverters within the South Delta experience water levels of concern.

Last summer the Department also experimented with alternative intake operations at Clifton Court Forebay, which seemed to improve the effectiveness of the temporary barrier operations and the general filling of South Delta channels.

In June 2002, the Department applied for a programmatic, localized dredging permit from the Army Corps of Engineers. A Public Notice for the permit was issued on May 28, 2004 with comments due by June 17, 2004. The permit will allow localized dredging within a 200-ft radius of a point of diversion. After coordination with South Delta Water Agency, two sites along the Old River bank on Union Island were identified for dredging this summer. Sediment sampling has been completed at the sites and the sediment analysis report has been finalized and submitted to the Regional Water Quality Control Board (RWQCB) in order to meet their requirements for a 401 Water Quality permit and a Waste Discharge permit. Final approval is expected by July, 2004. The Department anticipates that all necessary approvals will be in place in time for the next dredging window to begin in August, 2004. Should other locations for dredging be proposed in the future, then additional sampling and analysis will have to be performed. At both locations slated for dredging this summer portable pumps have been installed so that diverters will be protected before dredging can begin.

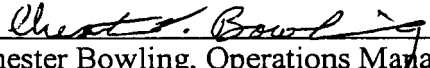
The Department and Reclamation will operate JPOD/transfers in accordance with the water quality standards contained in D-1641. We do not anticipate significant incremental impacts to water quality in the South Delta as a result of JPOD/transfer operations under current export capacities. A Water Quality Response Plan is being prepared by the Department and Reclamation to address effects of JPOD/transfers in the Southern and Central Delta.

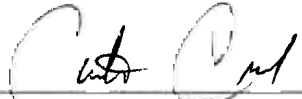
The Department and Reclamation request your approval of this plan as required by D-1641

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If you need any additional information regarding this plan, please contact Paul Fujitani, Bureau of Reclamation, at 916- 979-2197 or Curtis Creel, Department of Water Resources, at 916-574-2722.


Chester Bowling, Operations Manager
Central Valley Operations Office
Bureau of Reclamation


for Carl A. Torgersen, Chief
SWP Operations Control Office
Division of Operations and Maintenance

Enclosure 2

cc: Mr. Alex Hildebrand
South Delta Water Agency
P.O. Box 73092
Stockton, California 95267

Mr. John Herrick
South Delta Water Agency
P. O. Box 73092
Stockton, California 95267

Response to John Herrick's Comments on Draft 2004 Water Level Response Plan

Dear Paul and Curtis:

I apologize for my delay in commenting on the draft Water Level Response Plan. This comment letter will be separated into two parts, the first being comments/changes to the language used and the second being SDWA's position regarding approval of JPOD under the proposed Plan.

With regard to the language:

1. Page 1, third paragraph. Please remove the words "at low tide." As we have discussed in the past, problems may result from a decrease in high tide levels. For example, although DWR tries to avoid certain tidal conditions when filing Clifton Court, increased SWP diversions do result in a lowered high tide. This can result in insufficient water being trapped behind the tidal barriers, and diversions can deplete that water before the next tidal cycle can refill.

The basis of our modeling analysis is the incremental impact of JPOD on the water levels at low tide. We are continuing to investigate and working to protect SDWA when JPOD impacts on diversions are observed at times other than low tide.

2. Page 1, fourth paragraph. Please add SDWA for consultation should the current facilities change.

Okay

3. Page 1, fifth paragraph. After the word "forecasted" add the words "or actual" to better describe the terms of the Plan.

Okay

4. Page 1, Condition I paragraph. Remove the word "will" and replace with "is presumed to." As explained below, we do not have a basis for declaring any particular conditions will not cause harm.

Okay

5. Page 2, paragraph numbered 2). Add a new subparagraph as follows "d) Adequate mitigation (as described below) is provided for diverters downstream of the tidal barriers as necessary." This clarifies that the problem

downstream of the barriers exists but is being addressed.

This section describes conditions that do not cause or aggravate water levels of concern. The adequate mitigation measures statement is included under Condition II.

6. Page 2, paragraph Condition II b). After the word "exist" add the words "and are used." This clarifies that "exists" includes actual implementation.

Okay

7. Page 2, paragraph Condition II c). As per prior discussions, this condition seems impractical. I know of no data base which would allow DWR or USBR to contact all of the local diverters. Since the diversions are of differing elevations, I don't believe we can assume some diverters are representative of all others.

Reclamation and DWR will make their best effort to contact the potentially affected parties.

8. Page 3, second full paragraph. Typo? Need "in the" before "Spring."

Okay

9. Page 3, fourth full paragraph (Actual Water Level Problems). Remove "when and where no such levels were forecasted." The language seems to confuse the condition. If water level problems arise, regardless of forecasting, the action should cease.

Okay

10. Page 4, first (partial) paragraph. The words "with nearby observed data" are confusing. I'm not sure what is meant by this. Does it mean that if observation confirms no incremental impact the JPOD can continue? How would one confirm a tenth of an inch impact visually? Please rewrite.

Okay

11. Page 4, fifth full paragraph. As before, this paragraph is unacceptable. Once a problem arises, there is no quick way for a diverter (or SDWA) to gather and present evidence "proving" a water right or that there is available water. Riparian rights are not "proven" or quantified except through a court proceeding. It is the CDWA and SDWA position that such proof is not necessary, and already determined under the law. Absent project operations, the channels of the Delta always have water in them due to their elevation relative to sea level. Various Water Code statutes and the permits of the projects

require DWR and USBR to maintain Delta outflow and water quality without any reimbursement by local diverters. Hence, the local diverters always have water available with the burden of maintaining quality on the projects. Under these conditions, I see no real scenario under which a local diverter would not be entitled to adequate depth or quality.

Paragraph Deleted

12. Page 4, last paragraph. This provision is unacceptable. Prior Plans required a dredging project in response to SWRCB and DWR/USBR assertions that if certain channels were dredged there would not be any water level problems (in those areas). Last year's Plan was suspended and JPOD revoked because DWR and USBR had not implemented the required dredging program in violation of the Plan. To propose now that JPOD should be allowed while the dredging requirement be further delayed (assuming it will be approved, assuming within the time frame promised this time) is a reversal of the SWRCB decision to revoke the last Plan. Nothing has changed since the prior Plan was revoked and there is no basis or justification for ignoring that previous violation of Plan conditions.

This paragraph only gives the status of dredging. It does not propose that JPOD be allowed before dredging takes place.

13. We recommend a new paragraph which requires that any adverse quality impacts resulting from JPOD be mitigated or the action cease. Lowered water levels both with and without barriers can result in increased salinity concentrations. The Plan should be required to mitigate any such impact.

beyond the scope of this plan. That is

The second portion of this comment letter sets forth SDWA's continued opposition to the Response Plan in general. As DWR, USBR and SWRCB know, the SDWA continues to experience water level and quality problems. Just as important, the exact causes of some of these problems remains unknown. The inability to forecast some of these problems negates the underlying basis of the Response Plan. If we can't predict the effects of "normal" export pumping, we can't predict the effects of the JPOD and therefore we can't distinguish between the effects of JPOD and those of non-JPOD pumping nor can we prepare a method by which we can avoid the adverse impacts.

This year, Tom Paine Slough again experienced drastic low levels, but fully two months earlier than in prior years. The forecasted water levels, tides, inflow, etc. did not indicate any problem would exist, and so the temporary pumps used last year were not readily available, and not installed quick enough to prevent harm. Over the past three irrigation

seasons much speculation has been considered by DWR and SDWA as to the direct causes of the Tom Paine Slough problems (there is no doubt as to the effects export pumping has on water levels in general). Siltation in three different areas has been postulated, but no such connection has been shown. This year, the problem still existed even after three temporary pumps were operational and only was "cured" after water levels on the Sugar Cut side of the Slough appeared to recover on their own. None of the forecasting explained this recovery.

Similarly, in 2002, the problem disappeared within one day after no readily discernable changes had occurred. If this problem cannot be predicted or explained, there is no way to differentiate between JPOD effects and the effects of regular pumping.

Further, another diverter downstream of the tidal barriers has complained of problems. Although DWR is acting to determine what might be done, this too highlights the problem with JPOD. Until adequate measures exist to protect the area from the effects of exports, the temporary fixes appear to be simply reallocating the problem to new places or times. Such a situation does not support the approval of increased export rates at any times, and certainly not during the main irrigation season.

Please feel free to contact me if you have any questions, and let me know when you submit the Plan to the SWRCB. JOHN HERRICK

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